

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

)	
Martin James Sharpe, aka James Martin)	C/A No.: 4:07-cv-1463-GRA
Sharpe, aka James Sharpe,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	(Written Opinion)
)	
Warden Mauney, Northside Correctional)	
Institution,)	
)	
Respondent.)	
)	

This matter is before the Court for a review of the magistrate's Report and Recommendation filed on September 24, 2007, and made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(d), D.S.C. Petitioner brought this *habeas* action seeking relief pursuant to Title 28, United States Code, Section 2254 on May 25, 2007. On July 23, 2007, the Respondents filed a Motion for Summary Judgment. On July 26, 2007, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Petitioner was advised of the summary judgment procedure and the possible consequences if he failed to respond adequately. Petitioner filed a response on July 30, 2007. The magistrate recommends granting Respondents' Motion for Summary Judgment because the petition was not filed in a timely manner under the Antiterrorism and Effective Death Penalty Act of 1996.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.*


In the absence of objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The petitioner has not filed objections to the Report and Recommendation.

After a review of the magistrate's Report and Recommendation, this Court finds the report is applies the proper law to the facts presented. Accordingly, the Report

and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Respondents' Motion for Summary Judgment is GRANTED, and the petition be DISMISSED without an evidentiary hearing. FURTHER, IT IS ORDERED that Petitioner's Motion for Equitable Tolling is DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

October 16, 2007
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Petitioner has the right to appeal this Order within thirty (30) days from the date of the entry of this Order, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, will waive the right to appeal.